

Committee on Resources

Subcommittee on Water & Power

Witness Statement

TESTIMONY OF DAVID J. HAYES, ACTING DEPUTY SECRETARY, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE RESOURCES SUBCOMMITTEE ON WATER AND POWER, REGARDING H.R. 2348, A BILL TO AUTHORIZE THE BUREAU OF RECLAMATION TO PROVIDE COST SHARING FOR THE ENDANGERED FISH RECOVERY IMPLEMENTATION PROGRAMS FOR THE UPPER COLORADO AND SAN JUAN RIVER BASINS

October 21, 1999

Introduction

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear today to discuss the Administration's views on H.R. 2348, a bill to authorize the Bureau of Reclamation to provide cost sharing for the Upper Colorado River and San Juan River Basins Endangered Fish Recovery Implementation Programs. The Administration supports this legislation, with amendments to address concerns discussed below, and would like to thank Congressman Jim Hansen for introducing the bill.

Background

The States administer the development and use of water resources within their boundaries in accordance with State law, interstate compacts and international treaty, and are responsible for management of fish and wildlife resources within their boundaries. The Bureau of Reclamation operates Federal reservoirs on the Upper Colorado River and San Juan River Basins which regulate water deliveries under interstate compacts and ensure a reliable supply of water for beneficial use, incidental to which is the production of hydropower. The U.S. Fish and Wildlife Service is responsible for administering the Endangered Species Act (ESA). The involved Tribes have jurisdiction over water, land and wildlife on their respective tribal properties. The complexities of managing water and meeting the needs of endangered species led the parties to develop recovery programs for each river basin.

The Upper Colorado River Endangered Fish Recovery Implementation Program, established in 1988, is a cooperative effort involving the states of Colorado, Utah and Wyoming, environmental representatives, water and power user organizations, the Colorado River Energy Distributor Association, the Western Area Power Administration, the Bureau of Reclamation and the U.S. Fish and Wildlife Service. The Recovery Implementation Program's goal is to recover four species of fish, listed as endangered under the ESA, while enabling the states to continue to develop water in accordance with their Colorado River compact entitlements. The four species are Colorado pikeminnow, razorback sucker, humpback chub and bonytail.

A similar program was initiated in 1991 in the San Juan River Basin. Program participants are the States of Colorado and New Mexico, the Bureau of Reclamation, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs and the Southern Ute, Ute Mountain Ute, Jicarilla Apache, and Navajo tribes. In addition to recovering two species of endangered fish - the Colorado pikeminnow and razorback sucker - the San Juan program meets the need to proceed with water development in the Basin in compliance with Federal and State laws, interstate compacts, Supreme Court decrees and Federal trust responsibilities to the Tribes.

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The legislation would authorize funding for capital construction, operations and maintenance, and additional funding to implement other aspects of the Recovery Programs, which include building fish ladders, acquiring water, constructing hatchery facilities, and acquiring and restoring floodplain habitats used by endangered fish. It sets out the cost sharing relationships among the program participants for the completion of the recovery actions. The partners recognize that needed capital construction funds for the Programs through fiscal year 2007 may be as much as \$100 million. H.R. 2348 would apportion responsibility for the funding of capital projects between the Federal and non-federal partners. It would authorize \$46 million of Federal funds to the Bureau of Reclamation. The Department's ability to provide funding is subject to existing budget constraints. The remaining \$54 million would be generated from the following non-federal sources: State contributions of cash, land, and water interests, or in-kind services not to exceed \$17 million; contributions from power revenues up to \$17 million, which are defined as reimbursable by power customers; and an additional \$20 million dedicated from the flows from Flaming Gorge Dam in Utah and the Colorado Water Conservation District's Wolford Mountain Reservoir. H.R. 2348 recognizes the agreement brokered between the Colorado Water Conservation Board, the Western Area Power Administration, the Bureau of Reclamation, and the State of Colorado to allow the Board to provide a low-interest loan to the power users to minimize any rate increase resulting from capital expenditures. The legislation would differ from current practice where 100 percent of the costs of capital projects for the Programs are being provided by Federal appropriations.

The legislation would allow the Western Area Power Administration and the Bureau of Reclamation, through fiscal year 2011, to use power revenues up to \$6 million per year for base funding to operate both programs including operation and maintenance of capital projects, research, monitoring, information and education and program management. After 2011, power revenues may only be used to operate and maintain the capital projects and for monitoring, unless Congress authorizes additional funding.

We are concerned that Section 3(e) "Authority to Retain Appropriated Funds," may unduly restrict Reclamation's ability to manage its program. This provision is unnecessary as funds appropriated to Reclamation's Water and Related Resources account remain available until expended. We urge the Committee to delete Section 3(e).

We understand that Congressman Hansen, the original sponsor of H.R. 2348, will be introducing five amendments during the Subcommittee markup that will make technical corrections to the bill. We are unable to present the Administration's position at this time but would be happy to provide our views on the amendments when they have been introduced.

In addition, the Administration has concerns regarding repayment of Federal debt and PAYGO impacts. The Administration has policy concerns with allowing non-Federal interests to write off debt to the Treasury so as to redirect repayment funds to new investments. Additionally, technical changes are needed to clarify that power revenues provided on a reimbursable basis to fund capital project activities will be offset through rate changes resulting in increases over existing power revenues as necessary to avoid PAYGO impacts. We would like to work with the Committee to address these concerns.

Fish are Recovering

Both Recovery Implementation Programs have made significant progress toward recovering the endangered fishes. In the past 12 years, the Upper Colorado River Recovery Implementation Program has recorded population increases for the Colorado pikeminnow in both the Green and Colorado rivers. The number of adults being caught in the Green River has tripled, while adult catches in the Colorado River have increased nearly eightfold. The humpback chub populations in the Blackrocks and Westwater Canyon areas of the Colorado River have gone from declining to stable populations.

Since the beginning of the Programs, more than 207 favorable biological opinions have been issued under section 7 of the ESA, allowing more than 500 projects resulting in a total water depletion of nearly 600,000 acre-feet to go forward. Another biological opinion, nearing completion, will address more than one million acre-feet of water depletions. The unprecedented partnerships under the Programs have been instrumental in enabling water development to continue while providing for the long-term survival and recovery of the endangered fish. These partnerships have also enabled the Federal agencies to streamline the section 7 consultation process and provide timely responses to water users.

Because of the success with Colorado pikeminnow and humpback chub, the Upper Colorado River Recovery Implementation Program is now emphasizing razorback sucker and bonytail recovery actions. This year, more than 60,000 razorback suckers were stocked. For the first time in the Green River, fish stocked from previous years are appearing in the spawning areas in reproductive condition. In addition, new young adult fish are being captured, indicating that successful reproduction in the wild is occurring.

In 1999, 10,000 bonytails were stocked at each of two sites. Another 70,000 bonytails are being reared for release at a third site in the spring of 2000. Previously stocked fish are being captured in the wild and are demonstrating strong growth.

Other Recovery Implementation Program accomplishments are being made in flow enhancement and habitat development. Both Bureau of Reclamation and private dams on the Colorado River are being operated to provide high spring releases for fish without impacting the ability to supply irrigation, municipal, and industrial water. The Program continues to successfully restore the floodplain in areas that do not negatively impact landowners. This floodplain habitat provides nursery areas for young fish during spring snowmelt runoff. To date, the Program has removed dikes and levees along the river to restore natural flooding of more than 2,000 acres. Acquisition of an additional 1,600 acres of flood easements to restore habitat is in progress.

The Upper Colorado River Recovery Program has identified several priorities for the immediate future. Topping the list is construction of two additional fish passages on the Colorado River which will open another 50 miles of historic habitat for the fish. Another priority is to improve efficiency of operations on the Government Highline Canal - a canal that provides water to farmers in Colorado. This project will enable water users to reduce diversions by more than 28,000 acre-feet per year, making water available to help recover the endangered fish.

The San Juan River Recovery Implementation Program is also making significant progress toward recovering the razorback sucker and Colorado pikeminnow. Following nearly seven years of research and modeling, the Program adopted flow recommendations that provide water for other uses while also recovering the fish. This program has been a highly successful effort of the States, the Tribes, Federal agencies and water development interests. It has combined good scientific research with practical applications, resulting in successes for water development interests and endangered species.

The program provides section 7 compliance for 700,000 acre-feet per year of existing water depletions and for 121,000 acre-feet per year of future depletions for the Navajo Indian Irrigation Project. It supports tribal water development in the San Juan Basin, including 57,000 acre-feet of depletions for the Animas-La Plata Project. It will also provide future ESA compliance for the Department of the Interior to meet its trust responsibilities to the tribes.

We want to emphasize that much of the potential water development in the San Juan River Basin and in the Duchesne River Basin, a sub-basin of the Green River in the upper Colorado River basin, is for the benefit of Indian Tribes. Most of the Federally designated critical habitat for the endangered fish species in the San Juan River Basin is on Indian trust lands, and 2 ½ miles of critical habitat on the Duchesne River is on Indian Trust land. The Department of the Interior strongly supports the Recovery Implementation Programs' continued activities in accordance with the Federal Government's Indian trust responsibilities.

Cost-share Partnership

H.R. 2348 affirms the Federal government's commitment to continued implementation of the Recovery Programs as possible under current budget constraints and acknowledges the critical role of the states and power users in accomplishing species conservation while meeting the future needs of water users. With the authorization of base funding, this legislation also affirms the commitment to provide for the operation and maintenance of capital improvements and conduct important monitoring to ensure that recovery accomplishments are achieved and sustained into the future.

The States of Colorado, New Mexico, Utah and Wyoming support the cost share and have apportioned the costs among themselves. Colorado, Utah, and Wyoming have successfully secured the funding needed for their portion of the cost share through State budgeting processes. The Recovery Programs also receive significant benefit from local organizations, such as water from the Wolford Mountain Project in Colorado.

The Department of the Interior believes that long-term funding support of the Upper Colorado River and San Juan Recovery Implementation Programs is in the best interest of all citizens. A significant financial investment of both public and private funds has been made to conduct research, construct and manage facilities, and implement other measures to recover the endangered fish, as required by the ESA. These model programs have demonstrated success in recovering the fish while enabling water and power development and recreational water use to continue. The Programs are fully supported by private water and power users, environmental organizations and Federal, State and local agencies.

Conclusion

It is critical to the continued recovery of the four species of endangered fish and to future successful water management for multiple uses, that funding of both Programs continue at this juncture. H.R. 2348 provides a unique opportunity to sustain a partnership that combines Federal and non-federal funding in an effort to recover endangered species while recognizing and meeting the water needs of local communities. The Department of the Interior would like to thank Congressman Hansen for sponsoring this legislation, and with the addition of any needed amendments, we urge passage of H.R. 2348. We believe that the programs addressed in this legislation can serve as a model to other regions of the country for how partners can work collaboratively to achieve water development and species conservation goals.

That concludes my remarks, and I would be happy to answer any questions.

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